



**CITY PLANNING COMMISSION
STAFF REPORT
September 10, 2018**

Zoning Map Amendment

Case #1: Staff Reviewer: Tom Kicior

File Number: M-01-18-19

Case Type: Zoning Map Amendment

Applicant: Thomas Masaschi, One Flint St., LLC

Address: 5 and 15 Flint Street

Zoning District: R-1 Low Density Residential District

Section of Code: 120-190C

Request: To amend the Zoning Map by rezoning the properties located at 5 and 15 Flint Street from R-1 Low Density Residential District to R-3 High Density Residential District pursuant to the recommendations contained in the Vacuum Oil Brownfield Opportunity Area Vision Plan; an action requiring City Planning Commission recommendation to City Council.

Analysis:

The applicant proposes to rezone the above properties to facilitate possible future multi-family development.

Please see the list of Permitted and Specially Permitted uses in the R-3 District below.

Chapter 120. Zoning

Article V. R-3 High-Density Residential District

§ 120-26. Permitted uses.

The following uses are permitted in the R-3 District:

- A. Single-family detached dwellings.
- B. Single-family attached dwelling.
- C. Two-family dwellings.
- D. Multifamily dwellings.

- E. Live-work space, subject to the additional requirements for specified uses in § 120-142.1.
- F. Bed-and-breakfast establishments, subject to the additional requirements for specified uses in § 120-132.
- G. Family and group family day-care homes.
- H. Adult family day-care homes.
- I. Day-care centers, subject to the additional requirements for specified uses in § 120-135.
- J. Places of worship, except in structures originally designed solely for residential purposes.
- K. Convents and rectories.
- L. Home occupations, subject to the additional requirements for specified uses in § 120-139.
- M. Office, when in an existing structure built for a nonresidential use, operating between the hours of 6:00 a.m. and 9:00 p.m.

§ 120-27. Special permit uses.

The following uses are allowed as special permit uses in the R-3 District:

- A. Adaptive use of designated landmarks, subject to the additional requirements for specified uses in §120-130.
- B. Ancillary parking lots, subject to the additional requirements for specified uses in § 120-131.
- C. Community garages and parking lots.
- D. First floor commercial uses in multifamily dwellings over 20 units, subject to the additional requirements for specified uses in § 120-134.
- E. Nursing homes.
- F. Public and semipublic uses.
- G. Public utilities, subject to the additional requirements for specified uses in § 120-144.
- H. Residential care facilities, subject to the additional requirements for specified uses in § 120-146.
- I. Homeless residential facilities, subject to the additional requirements for specified uses in § 120-140.

J. Hospice.

K. Rooming houses, subject to the additional requirements for specified uses in § 120-147.[2]

Environmental Review: The Mayor's Office, as Lead Agency for the Vacuum Oil Brown Field Opportunity Area Vision Plan, is required to issue an Environmental Determination prior to City Council rendering a decision.

Applicant's statement concerning how request conforms to Zoning Map Amendment Considerations:
See attached.



August 30, 2018

VIA HAND-DELIVERY

Ms. Zina Lagonegro
Manager of Zoning
City of Rochester
City Hall
30 Church Street
Rochester, NY 14614

**Re: Zoning Map Amendment Request
5 & 15 Flint Street**

Dear Zina:

Per your request, enclosed please find the revised Zoning Map Amendment Request, submitted by One Flint St., LLC.

Please do not hesitate to contact me if you have any questions.

Respectfully submitted,

KNAUF SHAW LLP

ALAN J. KNAUF

cc: One Flint St., LLC

WHAT IS A ZONING MAP AND/OR TEXT AMENDMENT?

The Zoning Code and the Zoning District Map may be amended from time to time by ordinance duly enacted by the City Council. The amendment process is intended to provide a means for making these changes. It is not intended to relieve particular hardships or to confer special privileges or rights of a particular property owner, but is intended as a tool to adjust the provisions of the Zoning Code and the Zoning District Map in light of changing, newly discovered or newly identified conditions, situations or knowledge.

WHO MAY PROPOSE AN AMENDMENT?

Amendments may be proposed by the Mayor, the City Council, the Planning Commission, the Zoning Board of Appeals or the Preservation Board by transmitting such proposal, together with such supporting materials as may seem appropriate, to the Director of Planning and Zoning for processing. Minor text amendments addressing spelling, grammar, numerical references and other minor modifications which are not substantive may be proposed by the Director of Planning and Zoning and submitted directly to City Council for approval.

A proposed amendment may be initiated by an owner of, or person having a contractual interest in, real estate to be affected by the proposed amendment or by the owners of 50% or more of the frontage of real estate to be affected by the proposed amendment. The application shall be submitted, together with such supporting materials as may seem appropriate, to the Director of Planning and Zoning for processing.

The Director of Planning and Zoning may also request such other and further information and documentation deemed necessary or appropriate to a full and proper consideration and disposition of the particular application.

WHAT IS THE PROCESS?

Action by the Planning Commission:

- An informational meeting shall be set, advertised in an official newspaper, and conducted by the Planning Commission.
- The Official Neighborhood Contact and all property owners within 300 feet from the property lines of the affected property (ies) shall be notified.
- A staff report is prepared by the Zoning Office describing the proposed action. The staff report will contain any comments received from city and county agencies and any other correspondence received to the Director of Planning and Zoning, and will be mailed to members of the Planning Commission and the applicant.
- The applicant must attend the informational meeting and verbally describe the request to the Planning Commission.
- Within 30 days following the conclusion of the informational meeting, the Planning Commission shall transmit to the City Clerk for City Council its recommendation.
- If the Planning Commission recommends disapproval of the application, the applicant may withdraw the application and receive a refund of \$200 of the original \$400 application fee. If the applicant selects to proceed with the application, the request will be transmitted for City Council action as described below.

Action by City Council:

- Within 40 days of the receipt by the City Clerk of the Planning Commission's recommendation, or its failure to act, the City Council shall conduct a public hearing.
- The City Clerk will mail notices to affected parties.
- The applicant may attend the public hearing and verbally describe the request to the City Council.
- City Council will usually make its decision after the public hearing is closed.
- If the application is approved by City Council, the amendment will go into effect upon the approval of the Ordinance by the Mayor. This generally occurs within several days of the City Council approval.

SIGNATURES OF THE OWNER(S) (INCLUDING THE APPLICANT) OF REAL ESTATE TO BE AFFECTED BY THE MAP AMENDMENT

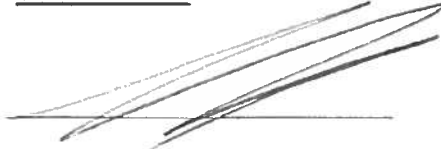
I HAVE READ AND FAMILIARIZED MYSELF WITH THE CONTENT OF THIS APPLICATION AND DO HEREBY CONSENT TO ITS SUBMISSION AND PROCESSING.

NAME (Please Print)

SIGNATURE

ADDRESS OF AFFECTED PROPERTY

One Flint St., LLC

A handwritten signature in dark ink, consisting of several overlapping, diagonal strokes, is written over the signature line.

5 & 15 Flint Street, Rochester, NY

AMENDMENT CONSIDERATIONS

In making recommendations regarding amendments to the text of the Zoning Ordinance or to the Zoning Map, the Planning Commission shall consider and make findings on the following matters regarding the proposed amendment:

- A. The proposed Amendment conforms with the City's Comprehensive Plan, a Development Plan, and any other adopted special area plans.**

See attached Supporting Document.

- B. The proposed Amendment is compatible with the present zoning and conforming uses of nearby property (ies) and with the character of the neighborhood.**

See attached Supporting Document.

- C. The proposed uses are suitable for the property (ies) affected by the Amendment.**

See attached Supporting Document.

- D. There are available public facilities, services and infrastructure suitable and adequate for the uses allowed under the proposed amendment.**

See attached Supporting Document.

SUPPORTING DOCUMENT

A. The proposed Amendment conforms with the City's Comprehensive Plan, a Development Plan, and any other adopted special area plans.

The proposed rezoning ("Rezoning") of 5 and 15 Flint Street (the "Parcels") from R-1 to R-3 would conform to the plans of the City. The rezoning would fulfill the goals and objectives for the Vacuum Oil Brownfield Opportunity Area ("VOBOA"). The VOBOA is an area that was the subject of analysis and planning, centered around the Vacuum Oil brownfield sites, including the Parcels. This work was accomplished through the New York State Brownfield Opportunity Area ("BOA") Program. The VOBOA is a 148-acre area on the west bank of the Genesee River, largely east of Plymouth Avenue. Through a three-step planning process, beginning in 2006 and concluded earlier this year, the City created a Master Plan and Implementation Strategy for VOBOA that was focused on area revitalization. This Master Plan and Implementation Strategy includes an analysis of possible development projects, housing strategies, as well as park, trail, and infrastructure improvements proposed to be completed over the next 20 years.

The proposed Rezoning was thoroughly analyzed and discussed throughout the VOBOA process, and analyzed as part of the State Environmental Quality Review Act ("SEQRA") review process. The Final Generic Environmental Impact Statement and Draft Generic Environmental Impact Statement ("DGEIS") for the Master Plan and Implementation Strategy fully analyzed potential environmental impacts of the Master Plan, including the Rezoning. Multiple zoning districts were considered. It was determined that Rezoning of the Parcels to R-3 would allow the "highest and best use" for the Parcels. DGEIS at 152 (see Attachment 1).

The Parcels currently sit vacant, but the VOBOA Implementation Plan calls for redevelopment with multi-family housing. As stated in the VOBOA DGEIS, "the R-3 zoning district would facilitate a multiple-family housing development which is likely the highest and best use due to the waterfront location and proximity to downtown, the University of Rochester and Rochester Institute of Technology. In addition, this housing type could relieve some of the housing pressures that are forcing the conversions of single-family homes to student rental which is causing concern in the neighborhood." DGEIS at 152 (see Attachment 1).

B. The proposed Amendment is compatible with the present zoning and conforming uses of nearby property (ies) and with the character of the neighborhood.

Yes. The Parcels are located adjacent to and across the street from an M-1 Industrial District, which allows mixed-use, including residential. Further, as stated above, the proposed Rezoning is compatible with the surrounding neighborhood. The VOBOA DGEIS acknowledged that the "yard and bulk requirements for the R-3 zone would provide for adequate setbacks, but may allow for heights that could be out of character for the surrounding properties." DGEIS at 152 (see Attachment 1). The DGEIS contemplated "limiting height of any new construction to reduce potential neighborhood character impacts related to massing. The parcels are located within an established neighborhood with heights generally associated with three story single-family residential houses." *Id.* This issue can be addressed if a development plan is submitted for the Parcels.

C. The proposed uses are suitable for the property (ies) affected by the Amendment.

The Parcels are suitable for the multi-family uses proposed by the Amendment. While the present zoning is R-1 (Low-Density Residential), the Parcels are contaminated due to operations of the former Vacuum Oil Refinery, and are enrolled in the New York State Brownfield Cleanup Program ("BCP"). Through the BCP, the Parcels will be remediated under the supervision of the New York State Department of Environmental Conservation ("NYSDEC"). As noted in the DGEIS, while in any case remediation of contaminant sources will be required, "[s]oil cleanup objectives for a single-family residential use are more stringent than for a restricted-residential (all other housing not single-family under common ownership or control)." DGEIS at 156 (*see* Attachment 1). Accordingly, the Rezoning to allow multi-family housing will allow more cost-effective cleanup to restricted-residential levels, making development feasible. However, after remediation to restricted-residential standards, NYSDEC will require that restrictions be imposed on the Parcels prohibiting single-family housing. Note that restricted-residential standards are more stringent than industrial or commercial levels.

Furthermore, the Parcels are adjacent to and across the street from property zoned M-1 (Industrial), where industrial and commercial businesses are operating. Therefore, they are not a suitable site for development of new single-family housing, even if such a development was economically feasible.

However, the Parcels are suitable for multi-family housing. As stated in the VOBOA DGEIS, "the R-3 zoning district would facilitate a multiple-family housing development which is likely the highest and best use due to the waterfront location and proximity to downtown, the University of Rochester and Rochester Institute of Technology. In addition, this housing type could relieve some of the housing pressures that are forcing the conversions of single-family homes to student rental which is causing concern in the neighborhood." DGEIS at 152 (*see* Attachment 1).

D. There are available public facilities, services and infrastructure suitable and adequate for the uses allowed under the proposed amendment.

Yes. As set forth in the VOBOA DGEIS, the necessary infrastructure is either present and acceptable for the proposed use, or will be upgraded in connection with development of the Parcels, consistent with the City's plans for the VOBOA.

PROJECT INFORMATION

PLEASE TYPE OR PRINT

1. PROJECT ADDRESS(ES): 5 & 15 Flint Street
2. APPLICANT: Thomas Masaschi COMPANY NAME: One Flint St., LLC
ADDRESS: 120 East Avenue CITY: Rochester ZIP CODE: 14604
PHONE: (585) 546-3088 FAX: (585) 486-1549
E-MAIL ADDRESS: tmasaschi@dhdventures.com
- INTEREST IN PROPERTY: Owner X Lessee _____ Other _____
3. PLAN PREPARER: Alan J. Knauf, Esq., Knauf Shaw LLP
ADDRESS: 1400 Crossroads Building, 2 State Street CITY: Rochester ZIP CODE: 14614
PHONE: (585) 546-8430 FAX: (585) 546-3088
E-MAIL ADDRESS: AKnauf@nyenvlaw.com
4. ATTORNEY: Same as above (Alan J. Knauf)
ADDRESS: _____ CITY: _____ ZIP CODE: _____
PHONE: _____ FAX: _____
5. ZONING DISTRICT: R-1
6. DETAILED PROJECT DESCRIPTION (additional information can be attached): _____
The Project will include multi-family housing, with an emphasis on student housing, ground level parking with outdoor space, vegetation buffer, potential trail connections to the Erie Lackawanna Pedestrian Bridge, potential future Neighborhood Connections, etc. The Project will continue to evolve as public outreach to the community continues, to ensure the community's needs are being incorporated.
7. LENGTH OF TIME TO COMPLETE PROJECT (Attach schedule if phased): TBD

APPLICANT: I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed in accordance with the conditions and terms of that approval.

SIGNATURE: _____ DATE: 7/31/2018

OWNER (if other than above): I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

SIGNATURE: _____ DATE: _____

ATTACHMENT 1

VOBOA EXCERPTS

VACUUM OIL

BROWNFIELD OPPORTUNITY AREA



City of Rochester, NY
Lovely A. Warren, Mayor

**Draft Generic Environmental
Impact Statement (DGEIS)
& Brownfield Opportunity
Area (BOA)**

Step 3 Implementation Plan

Accepted 9/29/17

This document was prepared with funds provided by the Department of State for the Brownfield Opportunity Area Program.

BERGMANN
ASSOCIATES

C. R-3 HIGH DENSITY RESIDENTIAL DISTRICT

The R-3 zoning district is currently in the VOBOA at two locations at the northern tip and the southern tip, as described in 3.2.2. According to the City Zoning Code, the purpose of the R-3 district is to:

“...provide residential areas that accommodate higher-density housing while protecting, maintaining and enhancing existing residential areas. The R-3 District may include various housing types ranging from single-family detached to high-density apartments. The district adds to the urban character of Rochester and provides diversity in housing types particularly in proximity to Community Center and Village Center Districts.”

At the southern end of the VOBOA, the Riverview Apartments complex is a dense residential development constructed to accommodate student housing and is zoned R-3. Adjacent to this residential complex, is an apartment complex on Luther Circle, zoned as R-1, owned and operated by the Rochester Housing Authority (RHA). The VOBOA plan indicates that the RHA complex should be maintained, but possible reconstructed to continue its use as an affordable and accessible housing option for neighborhood seniors who wish to age-in-place within the PLEX neighborhood. This complex, however, is nonconforming in the R-1 district and rehabilitation and reconstruction becomes more difficult from a permitting and funding perspective. Extending the existing adjacent R-3 zoning district to include Luther Circle would not only provide a more appropriate zoning district for Luther Circle, but would also enable an easier path toward redeveloping, improving, and replacing the housing on the street.

Another possible future use of the R-3 district in the VOBOA planning area is within the actual footprint of the Vacuum Oil/Exxon site in the area south of Flint Street, primarily 5 and 15 Flint Street and City-owned waterfront and former canal property. This area is vacant and currently zoned R-1. The privately-owned parcels total approximately 7 acres and are currently the subject of a development plan proposed by the owners, One Flint Street LLC. The proposal, reflected in the VOBOA Implementation Plan, is for the development of a multiple-family housing complex primarily for student housing. The R-3 zoning district would facilitate a multiple-family housing development which is likely the highest and best use due to the waterfront location and proximity to downtown, the University of Rochester and Rochester Institute of Technology. In addition, this housing type could relieve some of the housing pressures that are forcing the conversions of single-family homes to student rental which is causing concern in the neighborhood. The yard and bulk requirements for the R-3 zone would provide for adequate setbacks, but may allow for heights that could be out of character for the surrounding properties. Height should be limited, through the site plan review process, to 45 feet from the elevation of the Flint Street frontage. This is generally the height of the preexisting Foodlink building located at 936 Exchange Street at the corner of Flint Street and Exchange Street. Limiting height will reduce potential neighborhood character impacts related to massing. This site is located within an established neighborhood with heights generally associated with three story single-family residential houses. To maintain the existing neighborhood character new buildings should maintain heights associated with the existing Food Link building.

H. ZONING'S IMPACT ON REMEDIATION

Environment remediation will likely be required for a number of parcels within VOBOA, particularly within the footprint of the Former Vacuum Oil refinery. Once the nature and extent of contamination at a parcel is fully understood, a site developer working in the Brownfield Cleanup Program will take steps to remediate the parcel consistent with its proposed use. The requirements for remediating a parcel are more stringent for use with a residential component than ones involving a commercial or industrial use. Thus, since the zoning applicable to a parcel influences its uses allowed, the same zoning classification may influence the potentially applicable soil cleanup objectives that a remediated parcel must meet.

Soil cleanup objectives for a single-family residential use are more stringent than for a restricted-residential (all other housing not single-family under common ownership or control), commercial or industrial use, with industrial uses having the least stringent soil cleanup objectives. See 6 NYCRR § 375-1.8(g). For open space or recreational uses of lands, such as a ball field or walking trail, the New York State Department of Environmental Conservation (NYSDEC) applies the commercial use soil cleanup objective for passive recreational uses (i.e., public uses with limited potential for soil contact) and the restricted residential soil cleanup objective for those recreational uses with a reasonable potential for soil contact.

Separate and apart from complying with the use-based soil cleanup objectives, a developer under the Brownfield Cleanup Program will be required to remediate sources of contamination that may be deemed to be impacting the groundwater. A "source area" or "source" of contamination impacting groundwater is defined by the DEC regulations as:

Source area or source means a portion of a site or area of concern at a site where the investigation has identified a discrete area of soil, sediment, surface water or groundwater containing contaminants in sufficient concentrations to migrate in that medium, or to release significant levels of contaminants to another environmental medium, which could result in a threat to public health or the environment. A source area typically includes, but is not limited to, a portion of a site where a substantial quantity of any of the following are present:

- (1) concentrated solid or semi-solid hazardous substances;
- (2) non-aqueous phase liquids; or
- (3) grossly contaminated media.

Thus, the NYSDEC also established soil cleanup objectives for protection of groundwater. If soil in an area of groundwater contamination has the same contaminant above the protection of groundwater standard as is also found in the groundwater, the NYSDEC will typically treat that area as a source of contamination and select a remedy to best address that source. In some instances, that may be excavation but it does not necessarily have to be. For VOCs in soil, it may also be a technology that removes the contamination from the soil in-situ such as soil vapor extraction.

The degree in which groundwater may be remediated at a site in the Brownfield Cleanup Program is largely dependent upon whether restrictions on groundwater use will be imposed. In addition, the potential for the groundwater to influence surface water bodies or wetland areas or otherwise be part of a complete exposure route, along with feasibility to remediate, will be relevant to the degree to which the groundwater must be remedied.

4.5.2 Housing Strategy

In order to explore a variety of housing alternatives within the Study Area, a *Housing Analysis and Reinvestment Strategy* was prepared in 2016 (**Appendix 6**). The housing strategy presents a variety of options to assist the City and the neighborhood in creating a diversity of housing types, developing affordable housing, increasing home ownership, improving design of new construction, and applying strategic anti-displacement strategies to ensure current residents can remain in their homes or neighborhood.

4.6 Socio-economic Benefits of Implementation

Brownfield revitalization can bring numerous benefits to, in some cases providing a “ripple effect” that brings community benefits for health, the environment, the local economy, a community’s civic capacity, neighborhood identity, and neighborhood infrastructure. The ripple effect from brownfield revitalization can catalyze other benefits that go far beyond the original cleanup and property redevelopment. According to the EPA, there are many public health and environmental benefits associated with revitalization and brownfield remediation:

- Reducing or eliminating exposure to contamination.
- Brownfield and underutilized site reuse is a smart growth approach that improves walkability and has been linked with a reduction in vehicle miles traveled, which in turn improves air quality. Pedestrian friendly environments provide places for residents to interact, exercise and enjoy the outdoors.
- Reusing brownfields and underutilized property is a more efficient use of existing infrastructure and can also lessen the pressure on greenfield development.
- Brownfield revitalization can create green jobs and decrease poverty rates, provide market-rate and affordable housing and create public open spaces—thus contribute to a more stable community where residents have the opportunity to socialize and share information. Increasing social connections can help improve public safety, as those who feel connected to and invested in their neighborhood are more likely to monitor activity and the environment.

ATTACHMENT 2

DENIED CERTIFICATE OF ZONING COMPLIANCE



DENIED CERTIFICATE OF ZONING COMPLIANCE FORM

0015 FLINT ST

CERTIFICATE #: 1181849

III. STAFF REVIEW: TO BE COMPLETED BY ZONING STAFF:

1. ZONING DIST : R-1 DIST BOUNDARY LOT : N PRES/LANDMARK : N

DESIGNATED BUILDING OF VALUE: N

CURRENT LEGAL USE: UNLEAR

BASIS FOR LEGAL USE: PERMITS

2. APPLICATION DENIED PURSUANT TO CODE SECTION{S}: 120-192

APPLICATION DENIED DUE TO OUTSTANDING NOTICE OF VIOLATION NO: 000000

SPECIFIC REASON FOR DENIAL:

REZONING NEEDS TO BE REVIEWED BY THE CITY PLANNING
COMMISSION.

FOR APPLICATIONS DENIED PURSUANT TO CODE, THE FOLLOWING FORM{S} OF RELIEF IS/ARE AVAILABLE:

<input type="checkbox"/> Site Plan Review{Major}	<input type="checkbox"/> Area Variance	<input type="checkbox"/> Use Variance
<input type="checkbox"/> Site Plan Review{Minor}	<input type="checkbox"/> Certificate of Appropriateness	<input type="checkbox"/> Special Permits
<input type="checkbox"/> Certificate of Nonconformity	<input type="checkbox"/> Administrative Resubdivision	<input checked="" type="checkbox"/> Zoning Map Amendment
<input type="checkbox"/> Administrative Adjustment	<input type="checkbox"/> Subdivision	<input type="checkbox"/> Planned Development
<input type="checkbox"/>		

Environmental Assessment Form Required {EAF}? U

[Signature]
DIRECTOR OF PLANNING & ZONING OR "DESIGNEE"

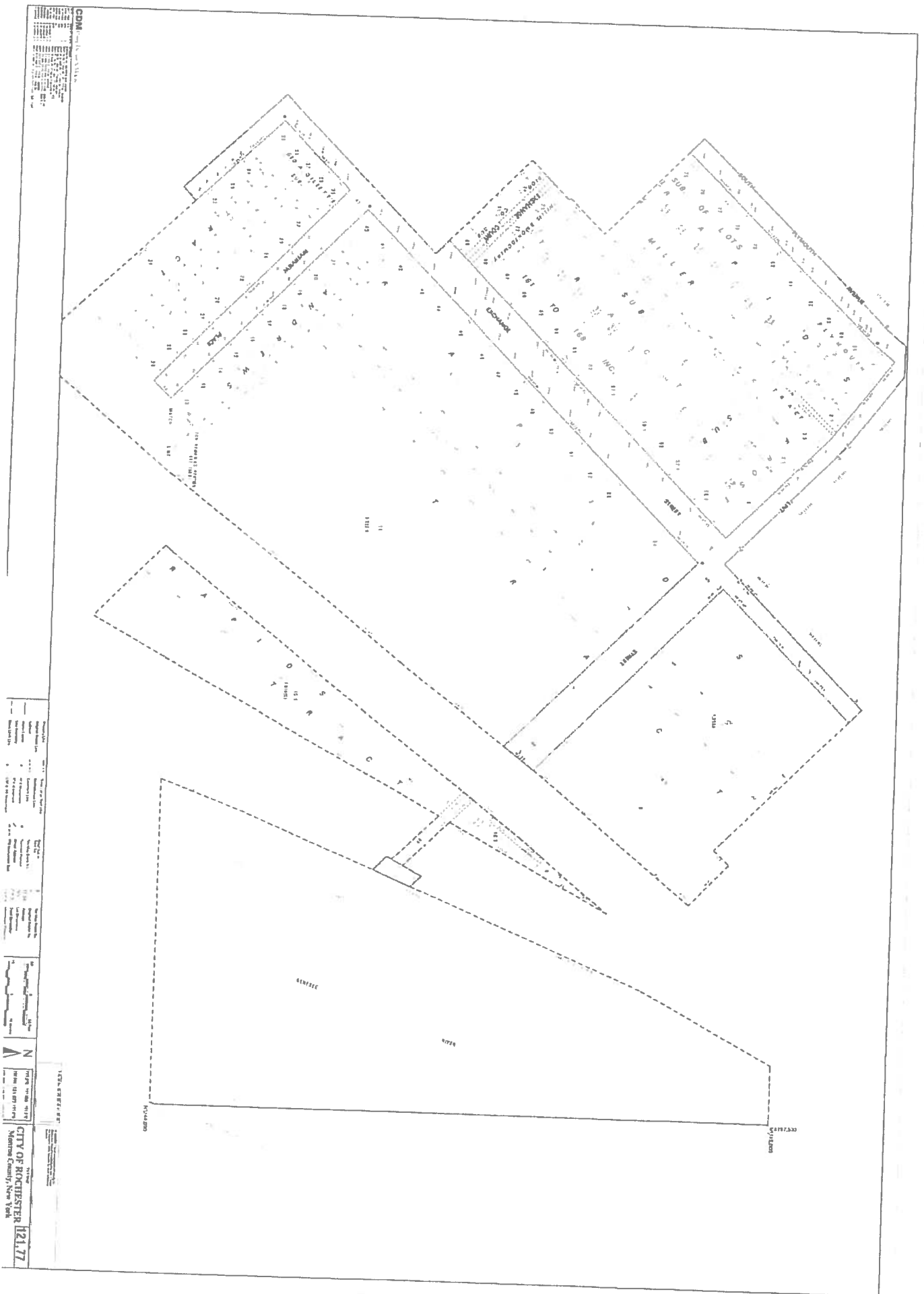
7/31/18
DATE

Notice of Disclaimer

The owner / applicant acknowledges that construction documents showing compliance with all applicable requirements of the New York State Uniform Fire Prevention and Building Code must be submitted prior to obtaining a building permit.

ATTACHMENT 3

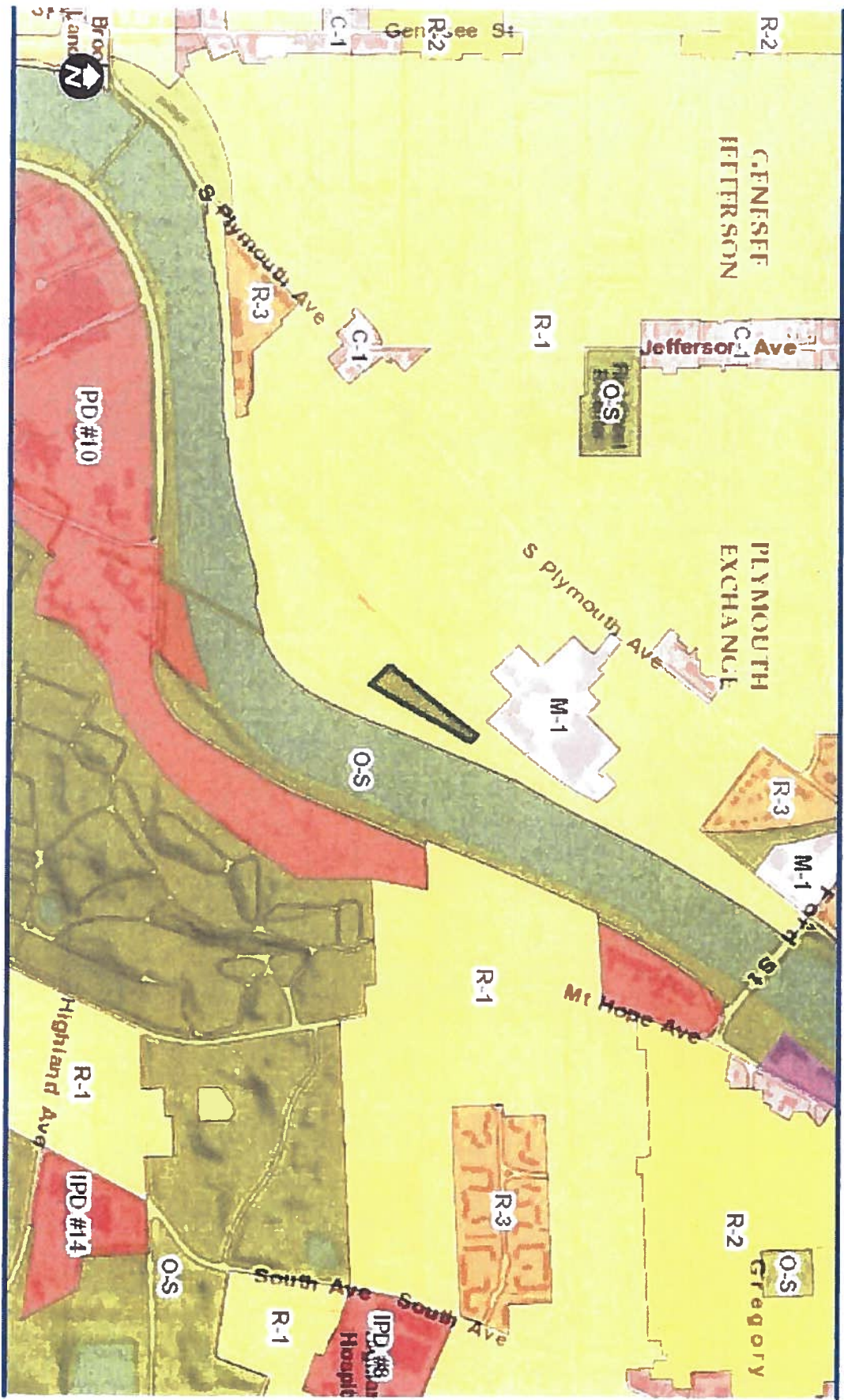
OFFICIAL MAP



ATTACHMENT 4

ZONING MAPS

5 FLINT ST



July 31, 2018

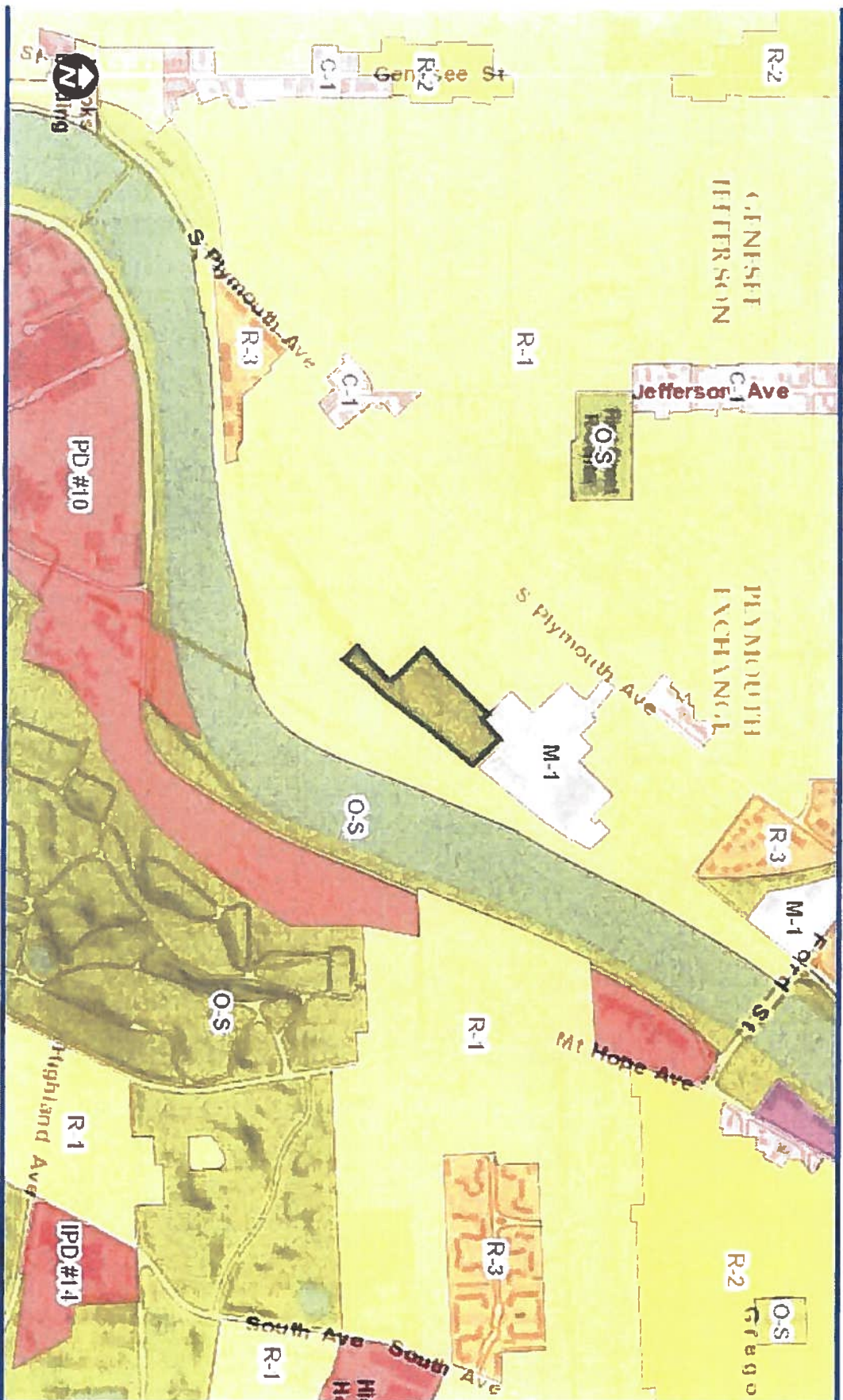
This map is intended for general reference only.
The City of Rochester makes no representation
as to the accuracy or fitness of the data presented.

City of Rochester, NY



City of Rochester, NY
Lovely A. Warren, Mayor

15 FLINT ST



July 31, 2018

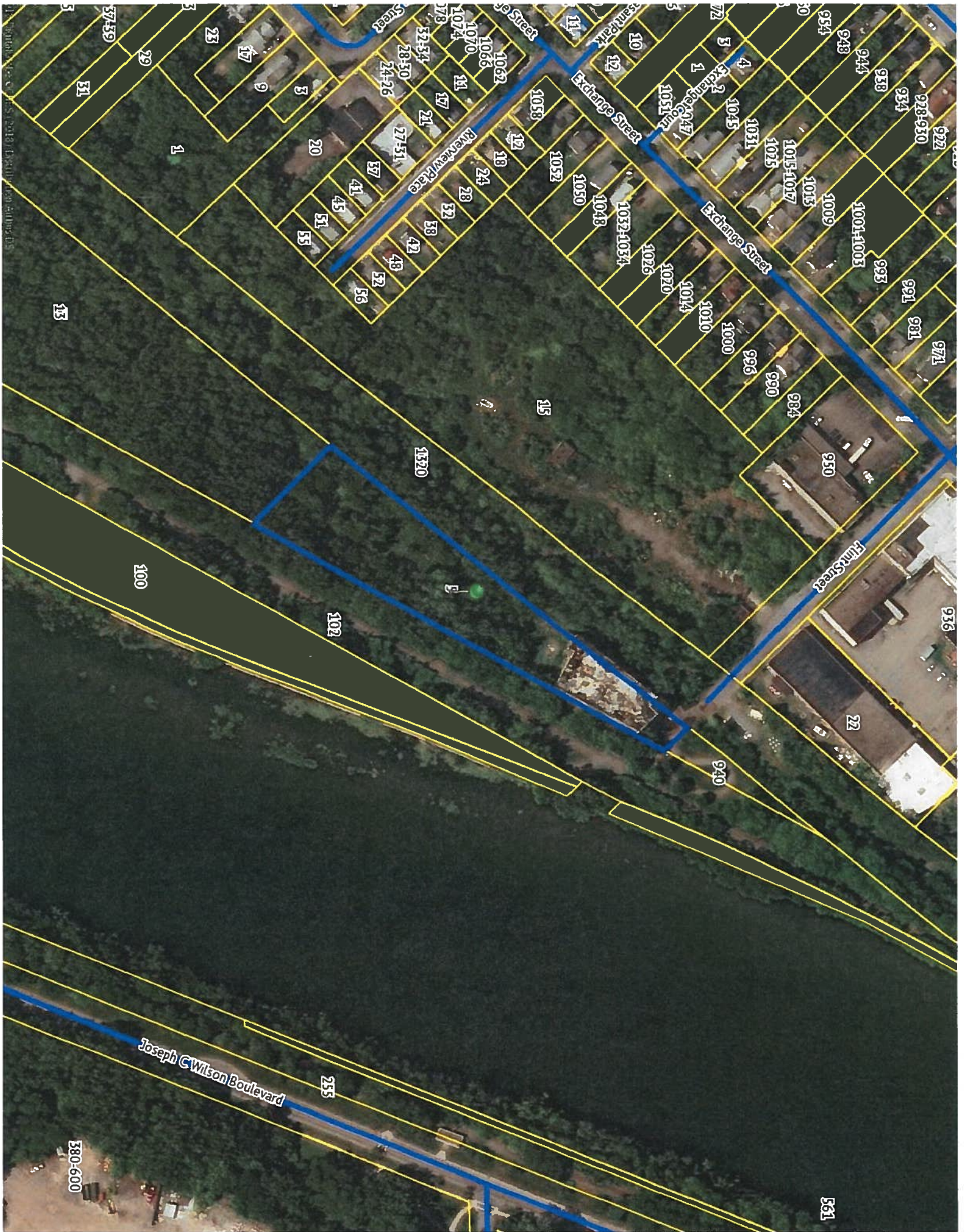
This map is intended for general reference only.
The City of Rochester makes no representation
as to the accuracy or fitness of the data presented.

City of Rochester, NY



City of Rochester, NY
Lovely A. Warren, Mayor







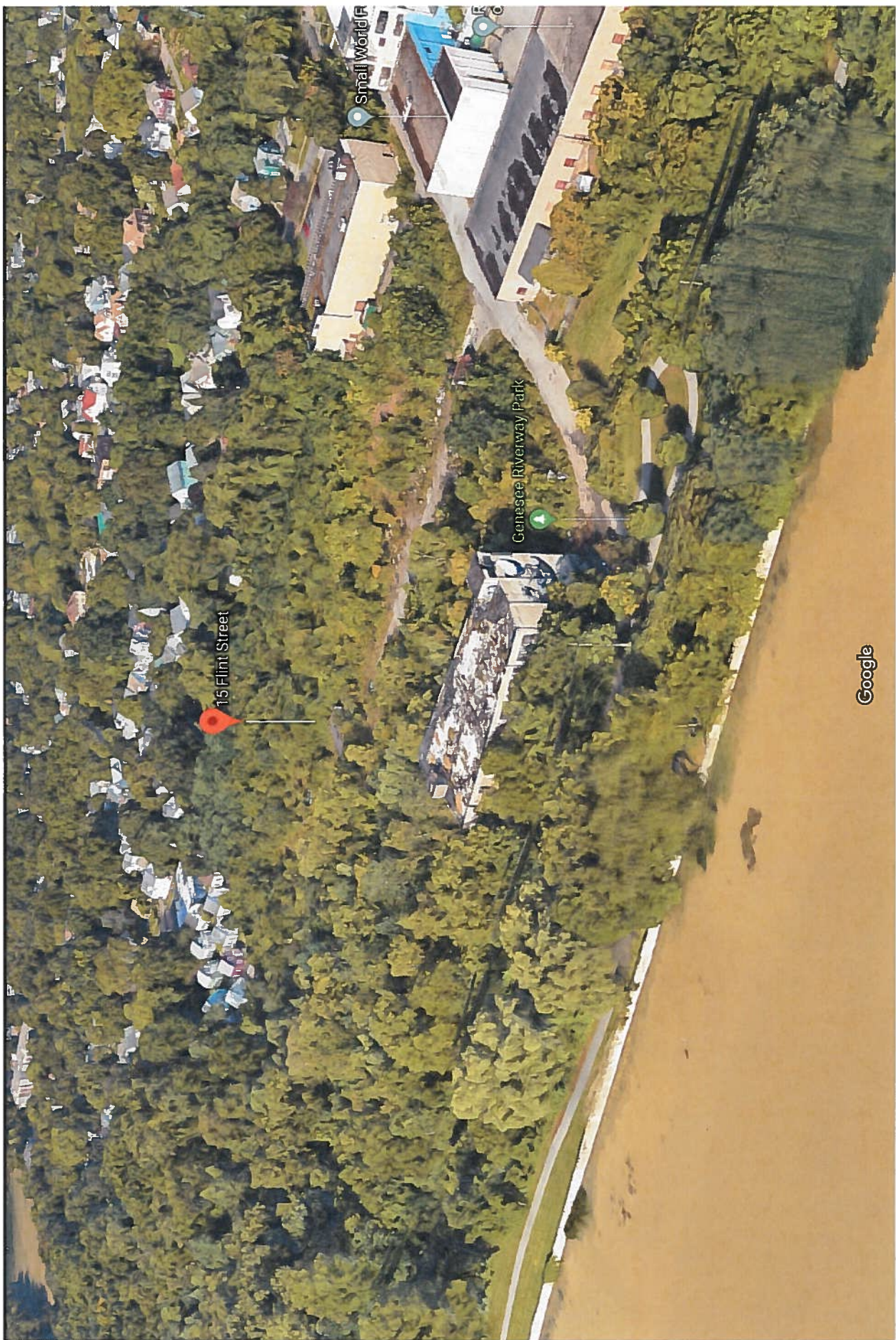




Image capture Jun 2017 © 2018 Google